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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Reserved on: 15.02.2024
Pronounced on: 12.03.2024

+ **W.P.(CRL) 2646/2023**

VINOD

..... Petitioner

Through: Mr. Faraz Maqbool, Advocate
(DHCLSC) with Ms. Vismita
Diwan, Mr. Chandan Kumar,
Ms. Sana Juneja and Ms.
Chinmayi Chatterjee,
Advocates.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Sanjeev Bhandari, ASC
for the State with Ms. Anvita
Bhandari, Mr. Kunal Mittal,
Mr. Arjit Sharma, Ms. Rishika,
Advocates and with SI Arti
Singh, P.S. Sector-23 Dwarka.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. The instant petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973



('Cr.P.C. ') has been filed on behalf of petitioner seeking issuance of writ of certiorari quashing Order No. F.10 (3744105)/CJ/Legal/2022/55201 dated 04.09.2023 passed by the respondent; and/or issuance of writ in the nature of mandamus directing respondent to release the petitioner on furlough for a period of three (03) weeks.

2. The petitioner is presently confined in Central Jail No. 03, Tihar, New Delhi. By virtue of judgment dated 12.04.2018, the petitioner was convicted under Sections 302/34 of the Indian Penal Code, 1860 ('IPC') and Section 27 of the Arms Act, 1959 in case arising out of FIR bearing no. 168/2011, registered at Police Station, Dwarka Sector-23, Delhi and was sentenced to undergo imprisonment for life by the learned Additional Sessions Judge (NDPS), Dwarka Courts, Delhi. His appeal against conviction i.e., CRL.A. 697/2018 was dismissed by this Court *vide* judgment dated 28.08.2018. Thereafter, the petitioner had preferred a SLP against the order passed by this court which was dismissed by the Hon'ble Supreme Court *vide* judgment dated 29.10.2021.

3. Learned counsel appearing on behalf of the respondent draws this Court's attention to the fact that the petitioner was released on parole from 18.05.2020 to 09.02.2021, however, he did not surrender in time and later had surrendered himself on 16.02.2021 which is late by 07 days. Thereafter, again the petitioner was released on parole from 15.05.2021 to 07.04.2023, however, again he had not surrender



on time and later had surrendered himself on 03.05.2023 which is late by 26 days. Therefore, it is prayed that the petition be dismissed.

4. On the other hand, learned counsel for the petitioner states that rejection order by the respondent is contrary to the fundamental principles of law. It is stated that the only reason for dismissal of the application of the petitioner for grant of furlough was the late surrender by the petitioner. It is stated that petitioner's late surrender was not intentional, and rather he had called the jail authorities to enquire about the date of surrender but the authorities had told the petitioner that they would themselves call him. However, no call was made to the petitioner, and it is the petitioner who had himself called the jail authorities on 02.05.2023 and had surrendered the very next date. It is further submitted that the conduct of the petitioner has been satisfactory, and he has never received a punishment ticket during his incarceration of approximately eight years. Learned counsel for the petitioner submits that the petitioner had applied for furlough on the ground that his father is old aged and needs assistance and care, and the petitioner wants to re-establish his family and social ties. Therefore, furlough be granted to the petitioner as prayed for.

5. This Court has heard arguments on behalf of both the parties and has perused the material placed on record.

6. The application filed by the petitioner for release on furlough was rejected *vide* order dated 04.09.2023, by the respondent/competent authority, on the following grounds:



“This is in reference to the application for grant of furlough to convict Vinod s/o Sukhdev.

In this regard, I am directed to inform you that the Competent Authority has considered the application for grant of furlough and same has been declined for the following reason(s):

1. He having history of late surrender after emergency parole twice.
2. Superintendent jail has not recommended grant of furlough.”

7. Thus, the application for grant of furlough filed by the petitioner has been rejected on the ground that he had not surrendered on time twice during emergency parole as per the rejection order.

8. While considering the present writ petition for grant of furlough, though this Court also has to remain conscious of the fact that the petitioner has been awarded rigorous imprisonment for life and that as per Nominal Roll, he has already remained in incarceration for almost 08 years and 02 months excluding remission of about 01 year 03 months and 24 days.

9. As regards the overall jail conduct of the petitioner, it has been reported as ‘unsatisfactory’ only on the ground of his late surrender after emergency parole was granted to him during pandemic. There is no other report of misconduct during the entire period of incarceration of 08 years and 02 months on any account. This Court also takes note of the fact that no punishment ticket has ever been awarded to him during his incarceration. This Court has also taken note of the arguments addressed by learned counsel for petitioner that



immediately after the petitioner had been released on furlough in the year 2020, the Covid-19 pandemic had begun and the petitioner had been told by his counsel that he need not surrender as the convicts had been granted emergency parole during the pandemic.

10. This Court has also gone through the Delhi Prison Rules, 2018. Rule 1197 and 1200 provide insights as to what objects are achieved by releasing a convict on parole. The said rules read as under:

“1197. Parole and Furlough to inmates are progressive measures of correctional services. The release of prisoner on parole not only saves him from the evils of incarceration but also enables him to maintain social relations with his family and community. It also helps him to maintain and develop a sense of self-confidence. Continued contacts with family and the community sustain in him a hope for life. The release of prisoner on furlough motivates him to maintain good conduct and remain disciplined in the prison.

1200. The objectives of releasing a prisoner on parole and furlough are:

- i. To enable the inmate to maintain continuity with his family life and deal with familial and social matters,
- ii. To enable him to maintain and develop his self-confidence,
- iii. To enable him to develop constructive hope and active interest in life,
- iv. To help him remain in touch with the developments in the outside world,
- v. To help him remain physiologically and psychologically healthy,
- vi. To enable him to overcome/recover from the stress and evil effects of incarceration, and
- vii. To motivate him to maintain good conduct and discipline in the prison...”

11. Further, Rule 1223 provides criteria in which a prisoner can be



released on furlough. The said rule reads as under:

“1223. In order to be eligible to obtain furlough, the prisoner must fulfil the following criteria: -

- i. Good conduct in the prison and should have earned rewards in last 3 Annual good conduct report and continues to maintain good conduct.
- ii. The prisoner should not be a habitual offender.
- iii. The prisoner should be a citizen of India.”

12. The address of the petitioner, of Delhi, has been verified by the Investigating Officer (IO) and the report in this regard is on record.

13. Considering the aforesaid facts and circumstances, and that the petitioner needs to take care of his old age father and other family members and also the fact that there is no report of misconduct since his surrender back in the jail and about 02 years have already passed since the late surrender, this Court is inclined to grant furlough to the petitioner for a period of three (03) weeks from the date of his release on the following conditions:

- i. The petitioner shall furnish a personal bond in the sum of Rs.10,000/- with one surety of the like amount, to the satisfaction of the Jail Superintendent.
- ii. The petitioner shall report to the SHO of the local area once a week on every Sunday between 10:00 AM to 11:00 AM during the period of furlough.
- iii. The petitioner shall furnish a telephone/mobile number to the Jail Superintendent as well as SHO of



local police station, on which he can be contacted if required. The said telephone number shall be kept active and operational at all the times by the petitioner.

- iv. Immediately upon the expiry of period of furlough, the petitioner shall surrender before the Jail Superintendent.
- v. The period of furlough shall be counted from the day when the petitioner is released from jail.

14. With the above terms, the present writ petition is disposed of.

15. A copy of this order be sent by the Registry to the Jail Superintendent concerned.

16. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

MARCH 12, 2024/ns